

ASSEMBLY BILL

No. 2906

**Introduced by Committee on Agriculture (Matthews (Chair),
Maze (Vice Chair), Canciamilla, Cogdill, Parra, Salinas, and
Vargas)**

February 24, 2006

An act to amend Sections 33221, 33222, 33223, 33224, 33225, 33226, 33251, 33252, 33257, 33261, 33262, 33263, 33264, 33291, 33292, 33296, 33297, and 33298 of, and to add Section 33228 to, the Food and Agricultural Code, relating to milk inspection services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2906, as introduced, Committee on Agriculture. Milk inspection services.

Existing law requires that various persons engaged in the business of producing, processing, distributing, or transporting market milk to obtain a permit from the Secretary of Food and Agriculture, as specified. Existing law provides that prior to issuance of that permit, an inspection of the dairy, milk products plant, business, or tanker truck, for which a cost-related inspection fee shall be paid.

This bill would require persons engaging in the business of cleaning or sanitizing bulk milk tanker trucks to obtain a permit from the secretary. This bill would provide that bulk milk tanker trucks shall only be cleaned or sanitized at a facility holding such a license or at a licensed milk products plant or dairy farm. This bill would require bulk milk tanker truck cleaners or sanitizers to be inspected and would provide that the secretary may establish a cost-related fee for inspection.

Because it is a crime to interfere with the enforcement of these provisions this bill would increase the scope of an existing crime, thereby imposing a state-mandated local program.

This bill would make numerous other technical, nonsubstantive, and conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33221 of the Food and Agricultural
2 Code is amended to read:

3 33221. As used in this article, “permit” means a permit ~~which~~
4 *that* is issued pursuant to Section 33222.

5 SEC. 2. Section 33222 of the Food and Agricultural Code is
6 amended to read:

7 33222. Every person, before engaging in the business of
8 producing market milk, shall obtain a permit from the ~~director~~
9 *secretary* or from the approved milk inspection service ~~which~~
10 *that* is maintained by the county ~~which is~~ designated by the
11 director pursuant to this chapter for each dairy farm.

12 SEC. 3. Section 33223 of the Food and Agricultural Code is
13 amended to read:

14 33223. If a permit is issued by an approved milk inspection
15 service designated by the ~~director~~ *secretary* to a producer of
16 market milk, no other permit shall be required of the producer by
17 any other approved milk inspection service.

18 SEC. 4. Section 33224 of the Food and Agricultural Code is
19 amended to read:

20 33224. Upon receipt of an application for a permit, the
21 ~~director~~ *secretary* or approved milk inspection service shall cause
22 an investigation to be made of the dairy farm where milk is
23 produced and of the herd ~~which~~ *that* produces the milk.

1 SEC. 5. Section 33225 of the Food and Agricultural Code is
2 amended to read:

3 33225. If this division and the standards—~~which~~ *that* are
4 established by or adopted pursuant to the authority—~~which~~ *that* is
5 granted in this division are complied with, and the applicant's
6 milk is to be delivered within a county which maintains an
7 approved milk inspection service, a permit shall be issued by the
8 ~~director~~ *secretary* or the approved milk inspection service, to the
9 dairy farm. The permit shall be issued for a period not to exceed
10 one year.

11 SEC. 6. Section 33226 of the Food and Agricultural Code is
12 amended to read:

13 33226. Every person shall obtain a permit from the—~~director~~
14 *secretary* before engaging in the business of processing or
15 distributing market milk. Upon receipt of an application for a
16 permit, the—~~director~~ *secretary* shall cause an investigation to be
17 made of the milk products plant or place of business from which
18 milk is distributed. If this division and the standards—~~which~~ *that*
19 are established pursuant to the authority—~~which~~ *that* is granted in
20 this division are complied with, a permit shall be issued by the
21 ~~director~~ *secretary* to the milk products plant or place of business.
22 The permit shall be issued for a period not to exceed one year.

23 SEC. 7. Section 33228 is added to the Food and Agricultural
24 Code, to read:

25 33228. (a) Any person, before engaging the business of
26 cleaning or sanitizing bulk milk tanker trucks shall obtain a bulk
27 milk tanker truck cleaning or sanitizing permit from the secretary
28 for each facility not attached to a licensed milk products plant or
29 market milk dairy farm that is used in the cleaning or sanitizing
30 of bulk milk tanker trucks.

31 (b) Bulk milk tanker trucks shall be cleaned or sanitized only
32 at a facility holding a valid bulk milk tanker truck cleaning
33 facility permit, a licensed milk products plant, or a permitted
34 market milk dairy farm.

35 (c) Upon receipt of an application for a bulk milk tanker truck
36 cleaning facility permit, the secretary shall cause an inspection to
37 be made of the facility. If this division and the standards that are
38 established pursuant to the authority that is granted in this
39 division are complied with, a permit shall be issued by the
40 secretary to the bulk milk tanker truck cleaning or sanitizing

1 facility or place of business. The permit shall be issued for a
2 period not to exceed one year.

3 (d) The secretary shall establish a cost-related inspection fee
4 for the inspection and permitting of bulk milk tanker truck
5 cleaning or sanitizing facilities not attached to a licensed milk
6 products plant or market milk dairy farm.

7 SEC. 8. Section 33251 of the Food and Agricultural Code is
8 amended to read:

9 33251. The county~~which~~ *that* maintains an approved milk
10 inspection service where an inspection fee is levied and collected
11 shall determine the actual cost of making an inspection of a dairy
12 farm~~which~~ *that* produces market milk within the area~~which~~ *that*
13 is designated and assigned to that service by the~~director~~
14 *secretary*. Records of the cost determination shall be made and
15 maintained by the county for examination by the director or other
16 interested person.

17 SEC. 9. Section 33252 of the Food and Agricultural Code is
18 amended to read:

19 33252. For the purpose of maintaining an approved milk
20 inspection service, the county may, but is not required to, levy
21 and collect an inspection fee or fees from producers of market
22 milk~~which~~ *that* is produced at dairy farms within the area~~which~~
23 *that* is designated and assigned to that service by the director.

24 SEC. 10. Section 33257 of the Food and Agricultural Code is
25 amended to read:

26 33257. If an approved milk inspection service inspects a dairy
27 farm, the dairy farm inspection fee, if levied, shall be collected
28 from the producer of market milk~~which~~ *that* is produced on the
29 dairy farm.

30 SEC. 11. Section 33261 of the Food and Agricultural Code is
31 amended to read:

32 33261. Charges~~which~~ *that* are made by any approved milk
33 inspection service for inspection fees are subject to audit by the
34 director, and for this purpose the director shall have access to all
35 books, papers, records, or documents~~which~~ *that* pertain to any
36 and all transactions of any approved milk inspection service and
37 may inspect and copy them in any place within the state.

38 SEC. 12. Section 33262 of the Food and Agricultural Code is
39 amended to read:

1 33262. Ten percent of the producers within any approved
2 inspection area may file with the director a written protest as to
3 the reasonableness of any inspection fee ~~which~~ *that* is levied and
4 collected from the producer pursuant to Section 33252.

5 SEC. 13. Section 33263 of the Food and Agricultural Code is
6 amended to read:

7 33263. The ~~director~~ *secretary* shall, after 30 days' public
8 notice of the hearing, and after five days' written notice to any
9 approved milk inspection service ~~which~~ *that* is concerned, hold a
10 hearing on the protest. The ~~director~~ *secretary* may deny,
11 postpone, or consolidate hearings for good cause. The ~~director~~
12 *secretary* shall provide in writing the reasons for the denial,
13 postponement, or consolidation of hearings.

14 SEC. 14. Section 33264 of the Food and Agricultural Code is
15 amended to read:

16 33264. Upon the completion of hearing, the ~~director~~ *secretary*
17 may establish a reasonable fee for the inspection ~~which~~ *that* is the
18 subject of the protest. Thereafter until the order of the ~~director~~
19 *secretary* is revoked, suspended, or amended, the producer,
20 notwithstanding any other provision of this article, is not required
21 to pay to the approved milk inspection service any inspection fee
22 in excess of the fee ~~which~~ *that* is designated as reasonable by the
23 ~~director~~ *secretary*. The ~~director~~ *secretary* shall make, and
24 maintain, written findings upon which inspection fees are
25 established pursuant to this section. The written findings shall be
26 readily available to any interested person for examination.

27 SEC. 15. Section 33291 of the Food and Agricultural Code is
28 amended to read:

29 33291. Every person that is engaged in the production of
30 market milk outside the jurisdiction of an approved milk
31 inspection service and every person engaged in the processing,
32 manufacture, or distribution of milk, milk products, or products
33 resembling milk products, *in the cleaning or sanitizing of bulk*
34 *milk tanker trucks*, or in the processing, manufacture, or freezing
35 of ice cream, ice milk, sherbet, or any similar frozen product
36 shall pay a cost-related inspection fee to the secretary.

37 SEC. 16. Section 33292 of the Food and Agricultural Code is
38 amended to read:

39 33292. Every milk products plant that is subject to this
40 chapter shall deduct from payments ~~which~~ *that* are due producers

1 for market milk, and shall pay to the ~~director~~ *secretary*, the fee
2 required to be paid by the producer.

3 SEC. 17. Section 33296 of the Food and Agricultural Code is
4 amended to read:

5 33296. The ~~director~~ *secretary* shall make, and maintain,
6 written findings upon which inspection fees are fixed pursuant to
7 Sections 33294 and 33295. The written findings shall be readily
8 available to any interested person for examination.

9 SEC. 18. Section 33297 of the Food and Agricultural Code is
10 amended to read:

11 33297. Any person subject to inspection fees provided for in
12 Section 33291 may file with the ~~director~~ *secretary* a written
13 protest as to the reasonableness of any inspection fee ~~which that~~
14 is levied and collected from those persons.

15 The director shall, after 30 days' notice, hold a hearing on the
16 protest and upon completion of the hearing, the ~~director~~ *secretary*
17 shall make and maintain written findings as to whether or not the
18 fee is reasonable.

19 SEC. 19. Section 33298 of the Food and Agricultural Code is
20 amended to read:

21 33298. The ~~director~~ *secretary* shall establish plan review fees
22 for sanitary design and construction review activities relating to
23 milk product plants and frozen milk product plants pursuant to
24 Chapter 6 (commencing with Section 33701). The fees shall not
25 exceed the actual direct costs required to perform sanitary design
26 and construction plan checks. Any money collected by the
27 ~~director~~ *secretary* pursuant to this section shall be paid into the
28 Department of Food and Agriculture Fund.

29 SEC. 20. No reimbursement is required by this act pursuant
30 to Section 6 of Article XIII B of the California Constitution
31 because the only costs that may be incurred by a local agency or
32 school district will be incurred because this act creates a new
33 crime or infraction, eliminates a crime or infraction, or changes
34 the penalty for a crime or infraction, within the meaning of
35 Section 17556 of the Government Code, or changes the
36 definition of a crime within the meaning of Section 6 of Article
37 XIII B of the California Constitution.

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2	CORRECTIONS:
3	Digest - Page 1.
4	Text - Pages 3, 5, and 6.
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